

Section 1001, as then in effect, provided, in relevant part:

[W]hoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both.¹⁷⁶

A false statements prosecution under section 1001 requires proof of actual falsity¹⁷⁷ and knowledge of a statement's falsity.¹⁷⁸

1. The Statement on the Request Form That the Background Report Was Needed to Allow a Person Access to the White House Was False.

The evidence established that Mr. Marceca's statement "ACCESS" on the Nussbaum forms, describing the reasons for his requests for FBI background reports, was false in every case where Mr. Marceca requested a background report for an individual who no longer required access to the White House. Mr. Marceca testified that he had been instructed to use this term to explain that his reason for requesting the report was that the person whose report he requested required access to the White House.¹⁷⁹

¹⁷⁶ 18 U.S.C. § 1001 (1996).

¹⁷⁷ United States v. Diogo, 320 F.2d 898, 902 (2d Cir. 1963).

¹⁷⁸ United States v. Yermian, 468 U.S. 63, 64 (1984); see also United States v. Rodgers, 466 U.S. 475, 483 (1984) ("Section 1001 only applies to those who 'knowingly and willfully' lie to the Government").

¹⁷⁹ HCGRO 2/26/96 Hearing at 39 (Marceca).